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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/686,915	10/16/2003	Roger N. Chauza	CHAU-0101US	7480
31782	7590	05/29/2008		
Handley Law Firm, PLLC Roger N. Chauza, PC PO BOX 140036 IRVING, TX 75014			EXAMINER MCMAHON, MARGUERITE J	
			ART UNIT	PAPER NUMBER
			3747	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/686,915

Applicant(s)

CHAUZA ET AL.

Examiner

Marguerite J. McMahon

Art Unit

3747

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3/31/08.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 and 21-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 27 is/are allowed.
- 6) ☒ Claim(s) 1-7, 10-15 and 21-26 is/are rejected.
- 7) ☒ Claim(s) 8 and 9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
- Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

Claims 10, 24, and 25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In line 2 of claim 10 "said articulated mechanism" lacks antecedent basis.

In lines 2-3 of claim 24 "simultaneously display an engine performance parameter resulting from the aftermarket apparatus switched in and out of operation" is unclear.

In lines 2-3 of claim 25 "programmed to calculate and display a difference between said engine performance parameters" is unclear.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 7, 12, and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Brana (5,219,399). Note an engine performance demonstration unit, comprising a mobile carrier (i.e. a vehicle), an engine mounted to the mobile carrier, an aftermarket apparatus 10 for use with the engine to modify the properties of fuel to be combusted by the engine and thereby affect the operation of the engine, and a switch mechanism (valve 12) for switching the aftermarket apparatus into operation and out of operation

Art Unit: 3747

while the engine is running to thereby affect said engine accordingly, a branched fuel line comprising a valve 12 for switching fuel to either of two branches 12B, 12C, one branch having said aftermarket apparatus coupled therein, and the other branch coupling fuel from said valve to said engine, and a programmed processor 22 for controlling said switch mechanism for switching said aftermarket apparatus into and out of operation (see column 5, third full paragraph).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-5, 10, 13-15, and 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brana (5,219,399) in view of Takada (JP2001341552A). Note a visual display which indicates the temperature of the fuel (see column 6). Brana shows everything except the visual display showing the difference in engine operation when the aftermarket apparatus is operational and nonoperational, the visual display displaying a parameter related to a pollutant emitted by the engine, a second visual display, a fuel flow gauge, a movable carrier for the aftermarket apparatus, and a catalytic converter.

Yukihiko teaches that it is old in the art to employ a visual display which shows a parameter related to a pollutant emitted by the engine and a programmed processor which stores the engine performance parameters and provides a visual display of the

Art Unit: 3747

stored parameters, the visual display also showing in graph form the difference between said engine performance parameters at different times (see abstract). It would have been obvious to one having ordinary skill in the art to modify Brana by including in the visual display available to the vehicle operator, an indicator showing the exhaust gas concentration over the time period in which the engine is operated, in order to provide the operator with information about how the engine is functioning throughout the time of engine operation, thus inherently including when the aftermarket device is operational and nonoperational.

With respect to claim 3, it would have been obvious to provide an additional visual display, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

With respect to claim 4, it would have been obvious to one having ordinary skill in the art to provide a fuel flow gauge as part of the display, in order to inform the vehicle operator as to the level of fuel contained in the fuel tank, as this conventional in most vehicles.

With respect to claim 10, it would have been an obvious matter of design choice to utilize a movable carrier for the aftermarket apparatus and to switch the aftermarket apparatus in and out of operation by moving it in lieu of moving the fuel through the aftermarket apparatus or bypassing it by employing a switching valve, as claimed in claim 7, since the device would function in the same manner in either case, as evidenced by Applicant claiming both variants.

With respect to claim 13, it would have been obvious to one having ordinary skill in the art to employ a catalytic converter which is capable of being switched into and out of operation with respect to the engine exhaust gases, since it is conventional in the engine art to provide a catalytic converter, and it would be inherent that it would be capable of being switched into and out of operation.

With respect to claim 14, it would be inherent that the engine would have a load, in order to usefully function, and that the load would be switched into and out of operation, said load inherently providing a resistance to a torque produced by the engine.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6, 11, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brana (5,219,399) in view of Takada (JP2001341552A) as applied to claims 2-5, 10, 13-15, and 21-25 above, and further in view of Po et al (5,070,852). Brana in view of Takada show everything except the aftermarket apparatus comprising a three-part magnet held in a respective metal frame that influences the molecules of fuel and the aftermarket apparatus not being a coil. Po et al teach that it is old in the art to employ a three-part magnet, i.e. a housing containing at least three magnets 21 which is clamped on the fuel pipe at a location corresponding to the electric heating device (see first few

lines of column 4), and a heating device which is not in the form of a coil (see column 3, lines 16-20). It would have been obvious to one having ordinary skill in the art to modify Brana in view of Takada by employing a three-part magnet, in order to purify the fuel and improve combustion (see column 4, first full paragraph). In addition, it would have been obvious to one having ordinary skill in the art to modify Brana in view of Takada by utilizing a fuel heating apparatus not in the form of a coil, as the device would function in the same manner regardless of the shape of the fuel heater. In addition, it would have been an obvious matter of design choice to employ a metal housing for the magnets, since since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Allowable Subject Matter

Claims 8 and 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 27 is allowed.

Response to Arguments

Applicant's arguments with respect to claims 1-15 and 21-27 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marguerite J. McMahon whose telephone number is 571-272-4848. The examiner can normally be reached on Monday-Wednesday and Friday, 10am-6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steve Cronin can be reached on 571-272-4536. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Marguerite McMahon
Primary Examiner
Art Unit 3747

/Marguerite McMahon/
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